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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,447	07/27/2001	Scott Fergusson	1137.1102101	9699
28075 7590 03/26/2007 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			EXAMINER JEANTY, ROMAIN	
			ART UNIT 3623	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/26/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/917,447

Applicant(s)

FERGUSON ET AL.

Examiner

Romain Jeanty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Final Office Action is in response to the amendment filed on November 29, 2006.

No claims were amended, added nor deleted in the amendment. Claims 1-29 are pending in the application.

### **Response to Arguments**

2. Applicant's arguments filed November 28, 2006 have been fully considered but they are not persuasive. See paragraph 8 below.

### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 6-8, 12-13 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney et al (US 5,818,907) in view of Musafia et al (US 2002/0038235).

As per claims 1 and 13, Maloney teaches a method for providing supervision over the activities of a number of representatives of a business (column 2, lines 32-48, where there is a supervisor who monitors service representatives at a call center), the method comprising the steps of: providing a database (column 7, lines 16-18), each of the number of representatives recording his/her activities in the database (column 8, lines 9-14, where the recording sessions

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(174) are entered into the database and are a record of the activities of the representatives. The system is set up to automatically record their activities while they are entering information or talking to the client. This is equivalent to the representative recording their activity as it performs an identical function in substantially the same manner with substantially the same results); providing a number of reports, each report defining a number of unacceptable activity parameters (Figure 1, teaches a quality scoring report (26), where quality scoring constitutes making a determination between good and bad or acceptable and unacceptable.); running the number of reports against the database, each report checking the recorded activities of each representative against the number of unacceptable activity parameters defined in the report (Figure 1: Quality scoring report (26) which is based on the activity data in the database, would keep a tally or track the acceptable and unacceptable parameters). Maloney does not explicitly teach providing a listing of alerts. Musafia teaches that it is known to provide a listing of alerts for only those activities in the database that fall within the unacceptable activity parameters defined in the number of reports (paragraph 61 where a warning indicator is presented on the monitor as an icon or other symbol and is capable of alerting the user to a system abnormality. An abnormality would constitute "outside the acceptable" parameters.). Musafia is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the alert listing feature of Musafia to provide means for quickly identifying unacceptable parameters and thereby indicating the need for adjustment to improve the overall efficiency of the system.

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As per claim 6, Maloney teaches a method of storing the listing of alerts in the database. (column 8, lines 9-14, where the recording sessions (174) are entered into the database and the reports are generated as part of the process, according to Figure 5, of using the sessions where the report represents an alert as it informs or alerts the representative to the status of their performance with respect to quality. The report is equivalent to an alert as it performs an identical function in substantially the same manner with substantially the same results.)

As per claim 7, Maloney teaches a method of performing follow up activity for selected alerts; and recording the follow up activity for the selected alerts in the database.( Figure 1: Follow up Program (28) where the representative is informed of their scores and is a means for improving overall performance quality as noted in column 4, lines 18-20, where the follow up program is part of the overall system taught in column 7, lines 16-18. All the report information is recorded or stored in a database as indicated in Figure 5.)

As per claim 8, Maloney teaches a method of assembling a listing of alerts that were generated during a predetermined previous time period. (The reports, which represent the alerts, are listed in schedule report (246) as noted in column 9, lines 24-26 where all monitoring sessions are listed according to groups and subgroups. The reports are equivalent to an alert as it performs an identical function in substantially the same manner with substantially the same results.)

As per claim 12, Maloney does not explicitly teach accessing the database for an alert. Musafia teaches that it is known that the step of accessing one or more entries in the database that correspond to a selected alert. (paragraph 92 where the warning icon or alert appears and the user can click on the icon to display the ratio values.). Musafia is an analogous art as it also

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teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the alert listing feature of Musafia to provide means for quickly identifying unacceptable parameters and thereby indicating the need for adjustment to improve the overall efficiency of the system.

As per claim 29, Maloney does not explicitly teach alerts. Musafia teaches that it is known to provide alerts for activities that fall outside the acceptable activity parameters defined in the report (paragraph 61 where a warning indicator is presented on the monitor as an icon or other symbol and is capable of alerting the user to a system abnormality. An abnormality would constitute "outside the acceptable" parameters.).

5. Claims 2-5, 9-10, 14-16 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney et al (US 5,818,907) in view of Musafia et al (US 2002/0038235) in further view of Levine et al (US 6,233,566).

As per claim 2, Maloney nor Musafia explicitly teach changing the unacceptable parameters. Levine teaches that it is known that the number of unacceptable activity parameters can be changed by a user or representative charged with the supervision of the activities of the number of representatives. (column 11, lines 40-50, where the manager can manipulate the data in the criteria database (245).) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney in view of Musafia with the editing feature of Levine to provide means for updating the criteria that is used in the system which allows it to be current and accurate.

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As per claims 3-4, Maloney nor Musafia explicitly teach batch mode or preset intervals for reports. Levine teaches that it is known that selected reports are run against the database in a batch mode during off peak hours. (column 12, lines 9-11, where nightly would constitute an off peak time and weekly would constitute a preset interval.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney in view of Musafia with the batch mode feature of Levine to provide means for generating reports to provide a means to minimize a strain on resources.

As per claim 5, Maloney nor Musafia explicitly teach reports run after a predetermined function from the representative. Levine teaches that it is known that selected reports are run against the database when a representative performs a predetermined function. (column 12, lines 5-11, where the information can be updated on a continuous basis as soon as live data is entered which would follow once the representative performs the operation of entering the information.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney in view of Musafia with the report feature of Levine to provide means for providing the report information on a continuous basis as soon as the representative enters the information. This provides real-time data which can allow corrective actions or other strategies to take place sooner.

As per claim 9, Maloney nor Musafia explicitly teach a search function. Levine teaches that it is known to identify selected alerts using a search function. (See Figure 14 where a search can be made with respect to a priority code.) Levine is an analogous art as it also teaches about

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monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney in view of Musafia with the search feature of Levine to provide means for finding a specific report/alert.

As per claim 10, Maloney nor Musafia explicitly teach compliance. Levine teaches that it is known to provide compliance related materials to a user.(column 21, lines 50-55, where the user can set up rules which are equivalent to compliance materials as they perform an identical function in substantially the same manner with substantially the same results.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney nor Musafia with the compliance feature of Levine to provide means for providing rules by which the users will know how to best interact with the system.

As per claim 14, Maloney teaches a method for providing a report used by a supervisor for supervising the activities of a number of representatives of a business (column 2, lines 32-48, where there is a supervisor who monitors service representatives at a call center), wherein each of the number of representatives records his/her activities in the database (column 8, lines 9-14, where the recording sessions (174) are entered into the database and are a record of the activities of the representatives. The system is set up to automatically record their activities while they are entering information or talking to the client. This is equivalent to the representative recording their activity as it performs an identical function in substantially the same manner with substantially the same results), the method comprising: identifying one or more unacceptable activities; defining one or more unacceptable activity parameters for detecting the one or more unacceptable activities when the report is run against the database



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(Figure 1: Quality scoring report (26) which is based on the activity data in the database, would inherently track acceptable and unacceptable parameters). Maloney nor Musafia explicitly teach changing the parameters. Levine teaches that it is known to determine which of the unacceptable activity parameters can be changed by the supervisor, resulting in one or more changeable activity parameters (column 11, lines 40-50, where the manager can manipulate the data in the criteria database (245) and Figure 22 which depicts changing parameters for FICO, CLTV and Debt ratio); and generating the report, the report including the one or more unacceptable activity parameters including one or more of the changeable activity parameters. (Figure 22 where those applications meeting the parameters set forth would be logged to the accepted file or report for that user as explained in column 22, lines 19-37.) Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney in view of Musafia with the editing of parameters feature of Levine to provide means for updating the criteria that is used in the system which allows it to be current and accurate.

As per claim 15, Maloney does not explicitly teach activities that fall within the unacceptable parameter. Musafia teaches that it is known the report is adapted to provide an alert for those activities in the database that fall within the unacceptable activity parameters defined in the report. (paragraph 61 where a warning indicator is presented on the monitor as an icon or other symbol and is capable of alerting the user to a system abnormality. An abnormality would constitute "outside the acceptable" parameters or within the unacceptable parameters.) Musafia is an analogous art as it also teaches about monitoring workers. Therefore

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it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney with the alert listing feature of Musafia to provide means for quickly identifying unacceptable parameters and thereby indicating the need for adjustment to improve the overall efficiency of the system.

As per claim 16, Maloney nor Musafia explicitly teach the business is a financial services firm and the representatives are brokers. Levine teaches that it is known that the business is a financial services firm and the representatives are brokers (column 5, line 56: financial products and column 25, lines 35-47, where brokerage firms, ie brokers, can be used in the system. See also claim 2.). Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney in view of Musafia with the editing of parameters feature of Levine to provide means for updating the criteria that is used in the system which allows it to be current and accurate.

As per claim 27, Maloney teaches a method for providing a report used by a supervisor for supervising the activities of a number of representatives of a business (Figure 1: quality scoring report (26)), wherein each of the number of representatives records his/her activities in the database (column 8, lines 9-14, where the recording sessions (174) are entered into the database and are a record of the activities of the representatives. The system is set up to automatically record their activities while they are entering information or talking to the client. This is equivalent to the representative recording their activity as it performs an identical function in substantially the same manner with substantially the same results), the method comprising: identifying one or more acceptable activities; defining one or more acceptable

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activity parameters for detecting the one or more acceptable activities when the report is run against the database (Figure 1, teaches a quality scoring report (26) which would inherently contain acceptable and unacceptable parameters). Maloney nor Musafia explicitly teach changing parameters. Levine teaches that it is known to determine which of the acceptable activity parameters can be changed by the supervisor, resulting in one or more changeable activity parameters (column 11, lines 40-50, where the manager can manipulate the data in the criteria database (245) and Figure 22 which depicts changing parameters for FICO, CLTV and Debt ratio); and generating the report, the report including the one or more acceptable activity parameters including one or more of the changeable activity parameters (Figure 22 where those applications meeting the parameters set forth would be logged to the accepted file or report for that user as explained in column 22, lines 19-37). Levine is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the monitoring system of Maloney in view of Musafia with the editing of parameters feature of Levine to provide means for updating the criteria that is used in the system which allows it to be current and accurate.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney et al (US 5,818,907) in view of Musafia et al (US 2002/0038235) in further view of Levine et al (US 6,233,566).

As per claim 11, Maloney nor Musafia explicitly teach a method of recording when the user views or access the compliance related materials. Official notice is taken that it is old and well known for a database to record the activities of a user whether it be accessing rules etc. Therefore it would have been obvious to one of ordinary skill in the art at the time of the

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invention to modify the system of Maloney with a recording feature of when a user accesses or views a screen to provide a detailed report of the activities involved with the database and what users performed what operations to track database usage.

7. Claims 17-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney et al (US 5,818,907) in view of Musafia et al (US 2002/0038235) in further view of Levine et al (US 6,233,566) in further view of LaFore et al (US 2002/0032640).

As per claims 17 and 18, Maloney nor Musafia nor Levine explicitly teach specific financial account data and maintaining a record of the trade. LaFore teaches that it is known that the database includes account numbers and date of birth of the customer as well as recording the trade by the representative (paragraph 3-4: "Section 17(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") requires registered broker dealers to make, keep, furnish and disseminate records and reports prescribed by the SEC "as necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Exchange Act." Rules 17(a)(3) and 17(a)(4) of the Exchange Act specify minimum requirements with respect to the records that broker-dealers must keep, as well as the periods during which those records and other documents relating to the broker-dealers' business must be preserved. The SEC, self-regulatory organizations ("SROs"), and state securities regulators must have timely access to these records to conduct effective examinations involving broker enforcement actions. Rule 17(a)(3) requires broker-dealers to generate local office blotters, record supplemental information on brokerage order memoranda, create customer account forms, and maintain additional records concerning associated persons, customer complaints, and exceptional activity in customer accounts. Furthermore, the rule requires that broker-dealers

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designate a principal to be responsible for books and records compliance, and requires broker-dealers to make certain records available to each of their local offices. The rules are even requiring the monitoring and reporting of electronic mail (e-mail) correspondence to and from a broker.” Whereby the customer account forms would include date of birth as this is pertinent information for record keeping purposes.). LaFore is an analogous art as it also teaches about monitoring workers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the database system as taught by Maloney in view of Musafia in further view of Levine with the account number, date of birth and trade recording features as taught by LaFore since such a modification would provide a more inclusive database system for customer information.

As per claims 19-20 and 22-26, Maloney teaches having a customer database which can generate various reports (Figure 1: quality scoring reports (26) and column 7, lines 16-18: database), Maloney nor Musafia nor Levine explicitly teach specific unacceptable activities of: too much trading by older customers, date of birth and number of trades, date of birth on or before the parameter and exceeds the number of trades parameter, a margin balance that is too large relative to the equity value, too many Annuity 1035 exchanges, too much trade activity in discretionary accounts, and having too many unacceptable activities in a set time period. LaFore teaches user-configurable (paragraph 15: “The data processing system maintains records on client information such as names, addresses, types of investments, trade activity, funds availability, investment objectives, as further discussed below. In addition, the data processing system generates reports on daily trade activity, production/activity by stockbroker, activity by client and by almost any other category which has been designated a data field within the data

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processing system.” Whereby the system generates reports on any category that there is a data field for including the client information and trade activity.). LaFore is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the database of Maloney in view of Musafia in further view of Levine with the financial information of LaFore to provide a more user-friendly system of a custom-designed report that would allow for the segregating of unacceptable activities.

As per claim 21, Maloney nor Musafia nor Levine explicitly teach changing date of birth and number of trade parameters by a supervisor. LaFore teaches that it is known to change date of birth and number of trades parameters by a supervisor (paragraph 101: “A person granted administrator level privileges is able to access all user screens and to edit or ad trade records, or change other data such as client or broker profiles.” A supervisor would likely be granted administrator privileges and are able to change other data which may include the criteria for the reports). LaFore is an analogous art as it also teaches about monitoring workers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the database of Maloney in view of Musafia in further view of Levine with the supervisor modification feature of LaFore to provide a more user-friendly database system.

As per claim 28, Maloney teaches a method wherein the report is adapted to provide an alert for those activities in the database that fall outside of the acceptable activity parameters defined in the report. (See Figure 1: quality scoring report (26) which would inherently list acceptable and unacceptable values. If it falls within the unacceptable area, it must be outside the acceptable area).

### Remarks

8. Applicants asserted that Maloney does not teach the claimed invention. Applicants further supported their assertion by arguing each report defining a number of unacceptable activity parameters is not necessarily present in Mahaney et al. In response, the Examiner respectfully disagrees with applicants' arguments because Maloney does teach a quality scoring report (26) whereby a quality scoring report would inherently contain a judgment of acceptable and unacceptable parameters due to the fact that a score is provided. A high score would inherently indicate high quality and a high level of acceptable parameters and therefore a low level of unacceptable parameters. As is well known to those of ordinary skill in the art, a quality score will determine if a product as a whole is considered acceptable or unacceptable and consequently able to be used and/or sold to a customer. Items of low quality are excluded from the inventory of sell-able goods since they are unacceptable for purchase.

With respect to the argument that Maloney does not teach "the report checks the recorded activities of each representative against the number of unacceptable activity parameters defined in the report" nor "monitor reports", the Examiner disagrees and asserts that Maloney teaches monitoring reports in column 3, lines 14-24 where Maloney teaches automatically producing reports of the monitoring activities of each employee, including monitored times for each agent. The employee is being measured on various criteria or parameters as is inherently indicated in the quality scoring report (26) where the concept of providing a score indicates that a parameter is being measured and the score determines the level of acceptable or unacceptable.

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With respect to the argument that Maloney does not teach “running the number of reports against the database”, the Examiner disagrees and asserts that Maloney teaches in column 10, lines 22-34 the concept of using Access databases to store the monitoring activities, whereby the quality scoring report (26) would be generated based upon the data in these databases.

With respect to the argument for claim 10 that Maloney in view of Levine do not teach “providing compliance related materials to a user”, the Examiner disagrees and asserts that the Specification teaches compliance materials include rules and regulations as indicated in paragraph 56. Levine teaches the use of rules in column 21, lines 50-55 whereby the user can set up rules to indicate conditions for notifications.

With respect to the argument on Official Notice, the Examiner notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 (“[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the



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examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

Applicants have not “specifically point[ed] out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” Applicant's broad request for references to support Examiner's statements of Official Notice amounts to nothing more than an unsupported challenge. For these reasons, the recording of when a user views or accesses materials is taken to be admitted prior art because Applicants' traversal was inadequate. It is inherent in database systems, such as the one disclosed in Maloney: Access, that each time a user opens a file or views the information in a file, the database records this as the “last modified” or “last accessed” date. Examiner submits “Special Edition Using Microsoft Excel 97” by Ron Person, Que Publishing, Decemeber 17, 1996 as evidence to support that Official Notice was properly taken. See Figure 10.6 on page 8 and page 11 where the modified dates and access dates for a file are recorded.

With regard to applicants' argument that Maloney would not be obvious to combine with LaFore, the examiner respectfully disagrees and asserts that both reside in the same field of endeavor trying to solve a similar problem: managing transactions. The fact that the intended use of the transaction may differ is not relevant. It has been held that “[a] prior art reference is analogous if the reference is in the field of applicant's endeavor or, if not, the reference is reasonably pertinent to the particular problem with which the inventor was concerned.

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Combination of elements from non-analogous sources, in manner that reconstructs applicant's invention only with benefit of hindsight, is insufficient to present prima facie case of obviousness." In re Oetiker , 24 USPQ2d 1443, 1446 (Fed. Cir. 1992). Furthermore, "[s]ection 103 requires us to presume that the artisan has full knowledge of the prior art in his field of endeavor and the ability to select and utilize knowledge from analogous arts." Lamont v. Berguer, 7 USPQ2d 1580, 1582 (BdPatApp&Int 1988).

With regard to applicants' argument that LaFore does not teach the representatives are brokers, the Examiner disagrees and asserts that LaFore teaches the Securities Exchange Act of 1934 in paragraphs 3-4, whereby this Act teaches the rules and regulations for broker dealers which includes recording of the trades that occur which constitutes a record of activities.

### **Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

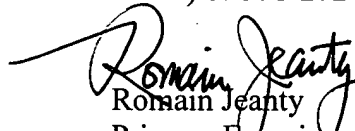
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Romain Jeanty  
Primary Examiner  
Art Unit 3623  
February 20, 2007